

REMARKS

Claims 1-8, 10-14, 34-44, 61-75, and 116-119 are presently pending in the application. Claims 9, 15-33, 45-60, and 76-115, have been removed from consideration as being directed to a non-elected invention. Reconsideration and allowance of all claims are respectfully requested in view of the following remarks.

As a preliminary matter, the Applicants note that this application contains the same specification and claims as the international application, No. PCT/US02/15351. Thus, no new matter was entered and the application was incorrectly identified as a continuation-in-part (CIP) on its filing date. The Applicants hereby correct the designation of this application to that of a continuation of international application No. PCT/US02/15351. No new matter has been entered. The Examiner is respectfully requested to correct the application's designation.

Turning to the Office Action, the Examiner states that the application does not contain an Abstract of the Disclosure. An Abstract of the Disclosure is presented herewith, which should obviate the Examiner's objection.

The Examiner has rejected Claims 1-8, 10-14, 34-44, 61-75, and 116-119, under 35 U.S.C. 102(b) as being anticipated by Grier et al. (USP 6,055,106). For the following reasons, the prior art rejection is respectfully traversed.

The Applicants respectfully submit that Grier et al. do not teach or suggest a phase patterning diffractive optical element having a variable optical surface to form a plurality of beamlets, each beamlet having a phase profile; nor a single transfer lens through which beamlets are directed from the phase patterning optical element, to form the multiple optical traps, as recited in Claim 1, and as substantially recited in Claims 10 and 116.

Further, the diffractive optical element having a virtual lens encoded therein, as recited by Claims 34, and 61, is not taught or suggested by Grier et al.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." See *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Since the phase patterning optical element having a variable optical surface, the single transfer lens, and the virtual lens encoded on the phase patterning optical element are not taught or suggested by Grier et al., Grier et al. can not anticipate the claims of the present invention.

Further, it is not obvious to achieve the optical traps of the present invention by adding such a virtual lens, or a single transfer lens, in place of the telescope lens system used in Grier et al. One of ordinary skill in the art would not have been motivated, without using impermissible hindsight, to modify Grier et al. to such an extent as to eliminate the telescope lens which appears to be required, to achieve the claimed features of the present invention.

Accordingly, Claims 1, 10, 34, 61, and 116 are neither anticipated by, nor obvious over Grier et al., and the Examiner's rejection under 35 U.S.C. 102(b) should be withdrawn.

Further, since Claims 2-8, 11-14, 35-44, 62-75, and 117-119, depend from Claims 1, 10, 34, 61, and 116, they are also patentably distinguishable over Grier et al. for the reasons cited above with respect to Claims 1, 10, 34, 61, and 116.

Thus, the claims should be in form for allowance and such action is hereby solicited.

If the Examiner believes that there is any issue which could be resolved by a telephone or personal interview, the Examiner is respectfully requested to contact the undersigned attorney at the telephone number listed below.

Applicants hereby petition for any extension of time which may be required to maintain the pendency of this case, and any required fee for such an extension is to be charged to Deposit Account No. 50-0951.

Respectfully submitted,

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Date: August 25, 2006